

787 KAR 1:300. Successorship.

RELATES TO: KRS 341.070, 341.540

STATUTORY AUTHORITY: KRS 151B.020, 341.115, 341.540(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 341.115(1) authorizes the secretary to promulgate administrative regulations necessary to administer KRS Chapter 341. KRS 341.540(2) provides that the basis for successorship, other than transfers between employing units with common ownership, shall be determined in accordance with administrative regulations promulgated by the secretary. This administrative regulation establishes the conditions under which an employing unit shall be found to be successor to another.

Section 1. Definitions. (1) "Domestic employing unit" means an employing unit for which service is provided as described in KRS 341.050(1)(g).

(2) "Going concern" means an employing unit that is providing goods or services, maintaining a staff or meeting payroll.

Section 2. Except as provided in Section 3 of this administrative regulation, successorship shall be deemed to have occurred between two (2) employing units if:

(1) Negotiation occurs to bring about the transfer, either directly between the parties to the transfer, or indirectly through a third party intermediary; and

(2) At least two (2) of the conditions established in the subsection are met, except this requirement shall not be satisfied if only paragraphs (c) and (d) of this subsection are met:

(a) The employing unit was a going concern at the time negotiations for the transfer began;

(b) The subsequent owner or operator continued or resumed basically the same type of employing unit in the same location;

(c) The subsequent owner employed fifty (50) percent or more of the previous owner's workers in covered employment;

(d) The previous owner employed fifty (50) percent or more of the subsequent owner's workers in covered employment; or

(e) The subsequent owner acquired work contracts or commitments from the previous owner.

Section 3. Successorship for a domestic employing unit shall be deemed to have occurred if two (2) of the conditions established under Section 2(2)(a) through (e) of this administrative regulation exist. (22 Ky.R. 493; eff. 11-6-95; Am. 27 Ky.R. 3364; eff. 8-15-2001.)